

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Market Dominant Product Prices  
Inbound Market Dominant Multi-Service Agreements  
with Foreign Postal Operators 1  
Australian Postal Corporation–United States  
Postal Service Bilateral Agreement (MC2010-35)  
Negotiated Service Agreement

Docket No. R2014-2

PUBLIC REPRESENTATIVE COMMENTS

(November 27, 2013)

The Public Representative hereby provides comments pursuant to Order No. 1881.<sup>1</sup> In that Order, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on the Postal Service's Notice of a Type 2 rate adjustment for inbound letter post entered with the Postal Service pursuant to an additional Inbound Market Dominant Multi-Service Agreement.<sup>2</sup> The Notice concerns a bilateral agreement with the Australian Postal Corporation (Australia Post), which would set negotiated rates for various inbound letter post items, including a service for delivery confirmation scanning of inbound letter post small packets and registered mail. Notice at 3. In addition, the Postal Service has incorporated the framework for a new product into the Agreement; however the parties are not yet prepared to introduce the new product. *Id.*

The Postal Service asserts that the Australia Post Agreement is similar, and therefore functionally equivalent, to the previous Australia Post Agreement. Consequently, the Postal Service proposes to include the Australia Post Agreement within the Inbound Market Dominant Multi-Service Agreement with Foreign Postal Operators 1 product. *Id.* at 8. The Postal Service also asserts that the negotiated rates

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<sup>1</sup> PRC Order No. 1881, Notice and Order Concerning Australian Postal Corporation Negotiated Service Agreement, November, 19 2013.

<sup>2</sup> Notice of United States Postal Service of Type 2 Rate Adjustment, and Notice of Filing Functionally Equivalent Agreement, November 15, 2013 (Notice).

in the Australia Post Agreement result in “improvement over default rates established under the Universal Postal Union (UPU) Acts for inbound letter-post items.” *Id.* at 3. The negotiated rates are intended to become effective on January 1, 2014. *Id.* at 2.

## COMMENTS

The Public Representative has reviewed the Australia Post Agreement and the supporting financial model filed under seal that accompanied the Postal Service’s Notice. Based upon that review, the Public Representative concludes that the Australia Post Agreement is likely to improve the net financial position of the Postal Service or otherwise enhance the operational performance of the Postal Service during the contract period. In addition, the Public Representative concludes that the Australia Post Agreement is functionally equivalent to the Australia Post 2012 Agreement.

*Functional Equivalence.* The Postal Service lists differences between the Australia Post 2012 agreement and the instant 2014 agreement. Notice at 9-10. The most significant change is the inclusion of International Merchandise Return Service and a new product to be introduced within the term of the agreement. *Id.* at 9. However, the inclusion of these products should not affect the functional equivalence of the agreement to its predecessor.

*Financial Improvement.* Under 39 U.S.C. § 3622(c)(10), the criteria for the Commission’s review are whether the agreement (1) improves the net financial position of the Postal Service or enhances the performance of operational functions, (2) will not cause unreasonable harm to the marketplace, and (3) will be available on public and reasonable terms to similarly situated mailers.

With respect to criterion (1), the Postal Service has not provided an analysis that demonstrates that the contract meets this criterion. However, the Public Representative analyzed the negotiated rates for inbound letter post items and has determined that the negotiated inbound letter post rates should result in improvement compared to the Provisional Quality of Service Linked terminal dues rates established by the UPU for

CY2014.<sup>3</sup> Based upon the Public Representative's analysis of the Postal Service's financial model, the negotiated rates for the Australia Post Agreement will improve the financial position of the Postal Service during the term of the agreement. The Postal Service's financial workpapers only estimate the cost coverage of the agreement, similar to what is filed in competitive NSA filings. However, market-dominant NSAs must be evaluated to ensure they meet the requirements of 39 U.S.C. § 3622(c)(10). In the future, the Postal Service should provide a clear analysis that demonstrates that the requirements of 39 U.S.C. § 3622(c)(10) are met.

The Australia Post Agreement should also make some improvement in the operational performance of the Postal Service. Notice at 4. With respect to criteria (2) and (3), the Postal Service makes reasonable arguments that the inbound Australia Post Agreement will not cause unreasonable harm to the marketplace and will be available on public and reasonable terms to similarly situated mailers. Notice at 4-5.

The Postal Service states that it may modify the contract in the future if it introduces a new product to the agreement. If the Postal Service does alter the products included within the agreement, it will be necessary for the Postal Service to modify the financial workpapers to determine if the inclusion of the new product will provide a net financial benefit to the Postal Service.

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<sup>3</sup> The Public Representative verified that the rates in the 2014 Australia Post Agreement will produce a higher cost coverage than the Provisional Quality of Service Linked terminal dues rates established by the UPU for CY2014.

The Public Representative respectfully submits the foregoing comments for the Commission's consideration.

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